

**UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.**

In the Matter of

**CERTAIN PLASTIC FOOD
CONATINERS**

Inv. No. 337-TA-514

GENERAL EXCLUSION ORDER

The Commission has previously determined that there is a violation of section 337 of the Tariff Act of 1930 (19 U.S.C. § 1337) in the unlawful importation and sale of certain plastic food containers that infringe the claim of U.S. Design Patent No. 415,420 ("the '420 patent"), claim 1 of U.S. Patent No. 6,056,138 ("the '138 patent"), and claim 1 of U.S. Patent No. 6,196,404 ("the '404 patent"). Having reviewed the record in this investigation, including the written submissions of the parties, the Commission has made its determinations on the issues of remedy, the public interest, and bonding. The Commission has determined that a general exclusion from entry for consumption is necessary to prevent circumvention of an exclusion order limited to products of named persons because there is a pattern of violation of section 337 and it is difficult to identify the source of infringing products. Accordingly, the Commission has determined to issue a general exclusion order prohibiting the unlicensed importation of infringing plastic food containers.

The Commission has also determined that the public interest factors referenced in 19 U.S.C. §§ 1337(g) do not preclude the issuance of the general exclusion order, and that the bond during the Presidential review period shall be in the amount of 100 percent of the entered value of the articles in question.

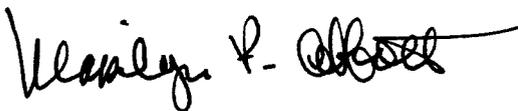
Accordingly, the Commission hereby ORDERS that:

1. Plastic food containers covered by one or more of claim 1 of the '420 patent, claim 1 of the '138 patent, or claim 1 of the '404 patent, or are excluded from entry for consumption, entry for consumption from a foreign-trade zone, and withdrawal from warehouse for consumption for the remaining term of the patents, except under license of the patent owner or as provided by law.
2. Notwithstanding paragraph 1 of this Order, the aforesaid plastic food containers are entitled to entry into the United States for consumption, entry for consumption from a foreign-trade zone, and withdrawal from warehouse for consumption, under bond in the amount of 100 percent of the entered value of such articles, from the day after this Order is received by the President, pursuant to subsection (j) of section 337 of the Tariff Act of 1930, as amended, until such time as the President notifies the Commission that he approves or disapproves this action, but no later than 60 days after the date of receipt of this Order by the President.
3. In accordance with 19 U.S.C. § 1337(l), the provisions of this Order shall not apply to plastic food containers imported by and for the use of the United States, or imported for, and to be used for, the United States with the authorization or consent of the Government.
4. The Commission may modify this Order in accordance with the procedure described in section 210.76 of the Commission's Rules of Practice and Procedure (19 C.F.R. § 210.76).
5. The Commission Secretary shall serve copies of this Order upon each party of record in this investigation and upon the

Department of Health and Human Services, the Department of Justice, the Federal Trade Commission, and the Bureau of Customs and Border Protection.

6. Notice of this Order shall be published in the *Federal Register* pursuant to section 337(j)(1)(A) of the Tariff Act of 1930 as amended (19 U.S.C. § 1337(j)(1)(A)) and section 210.49(b) of the Commission's Rules of Practice and Procedure (19 C.F.R. § 210.49(b)).

By order of the Commission.

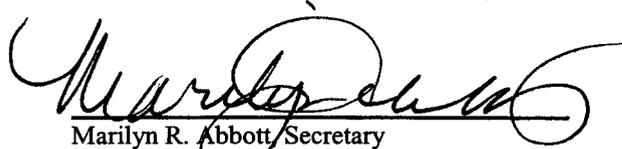
A handwritten signature in black ink, appearing to read "Marilyn R. Abbott", with a long horizontal flourish extending to the right.

Marilyn R. Abbott
Secretary to the Commission

Issued: May 23, 2005

CERTIFICATE OF SERVICE

I, Marilyn R. Abbott, hereby certify that the attached **NOTICE OF FINAL DETERMINATION OF VIOLATION OF SECTION 337 AND ISSUANCE OF GENERAL EXCLUSION ORDER; TERMINATION OF THE INVESTIGATION** was served upon the Commission Investigative Attorney, Michael Diehl, Esq., and all parties via first class mail and air mail where necessary on May 27, 2005.



Marilyn R. Abbott/Secretary
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